IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 21771 of 2007(P)

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PETITIONER:

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MATHEW ANTONY, AGED 37 YEARS,
S/O.K.C.ANTONY, KARIYIL HOUSE,
M/S.'DAKSHIN RUBBER WORKS'
INDUSTRIAL ESTATE, CHANGANACHERRY,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
VYDUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

2. THE EXECUTIVE ENGINEER,
CHANGANACHERRY ELECTRICAL DIVISION,
CHANGANACHERRY P.O., KOTTAYAM DISTRICT.

3. THE ASSISTANT EXECUTIVE ENGINEER,
THENGANAL ELECTRICAL DIVISION,
KERALA STATE ELECTRICITY BOARD,
THENGANAL P.O., KOTTAYAM DISTRICT.

4. M/S.KERALA STATE SMALL SCALE INDUSTRIES
DEVELOPMENT CORPORATION LIMITED,
(SIDCO) P.B.NO.50, 6TH FLOOR, HOUSING BOARD
BUILDINGS, SANTHI NAGAR, THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR.

5. THE ESTATE MANAGER,
KERALA SMALL SCALE INDUSTRIES DEVELOPMENT
CORPORATION, (SIDCO), INDUSTRIAL ESTATE P.O.,
CHANGANACHERRY, KOTTAYAM DISTRICT.

6. I.MUMTHAZ, PARAKAL HOUSE,
(OASIS RUBBER INDUSTRIES)
BEHIND SURESH NURSING HOME,
ICO JUNCTION, CHANGANACHERRY,
KOTTAYAM DISTRICT.

R1 TO 3 BY ADV. SRI.P.P.THAJUDEEN, SC
R4&5 BY ADV. SRI.M.A.MANHU, SC, SIDCO

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/08/2007, ALONG WITH WPC NO. 16886 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) Nos.21771 of 2007 &
16886 of 2006

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Dated this the 14th day of August, 2007.

JUDGMENT

Heard counsel for the petitioner, Standing Counsel for KSIDC and Standing Counsel for KSEB and also counsel appearing for 6th respondent in W.P. 21771/2007. The petitioner and 6th respondent in W.P. 21771/2007 own industrial plots in the industrial estate owned by KSIDC. At present both the petitioner and 6th respondent enjoy power connection to their industries from a common transformer which stands installed in the property of the 6th respondent. The petitioner has sought for additional power allocation and having regard to the load requirement, petitioner has to be necessarily have a separate transformer is what is submitted by counsel for KSEB. Since 6th respondent raised objection in installing the transformer in the present location which is allotted to and under the control of 6th respondent, additional power allocation cannot be given to the petitioner.

2. The petitioner has produced photograph which show the relative location of the industries of the petitioner and 6th respondent. It is stated that two cents of land is lying in front of the new factory building

constructed by the petitioner. Photograph shows that the said land is between the edge of the road and the new building constructed by the petitioner. Even though counsel for the KSIDC submitted that the said land is required for road widening, I do not think such widening of road is possible without demolition of the building of 6th respondent because without achieving uniform width, road widening is not possible. Moreover, land is seen available on the other side of the road also. In any case if road widening is required, KSIDC is free to widen the road. However, since industry cannot run without availability of power, there will be direction to KSEB to instal the transformer in the land in front of the petitioner's new building and give power allocation on petitioner meeting the cost for the same. It is for KSIDC to recover cost of land at market value which will be paid by the petitioner on demand by KSIDC. Counsel for KSIDC stated that petitioner has encroached upon 1.63 cents of land. If encroachment is made, KSIDC should be paid market value for the same also on demand, failing which petitioner can be evicted. If anybody has made illegal construction including 6th respondent, it is for the KSIDC to remove the same and restore the land to it's original nature.

The W.Ps. are disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms